**Remarks/Arguments**

Reconsideration of this application is requested.

Claims 36-41, 43 and 45-61 have been rejected by the Examiner under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The Examiner is of the opinion that Applicant's phrase "utilizing a computer" in the preamble does not provide statutory claim language within the body of the claim language. Thus, it is non-statutory.

The United States Court of Appeals has held in the case of Pitney Bowes Inc. vs. Hewlett-Packard Co. 51 USPQ 2d 1161,1165,1166 the following:

> "Although our initial discussion has focused on the preamble, as opposed to to the remainder of the claim language, this does not undercut its significance. "[A] claim preamble has the import that the claim as a whole suggests for it." Bell Coomunications Research, Inc. v. Vitalink Communications Corp., 55 F.3d 615, 620, 34 USPQ2d 1816, 1820 (Fed. Cir. 1995). If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is "necessary to give life, meaning and vitality" to the claim, then the claim preambleshould be construed as if in the balance of the claim. Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 480-81 (CCPA 1951); See also Rowe v. Dror, 112 F.3d 473, 478, 42 USPQ2d 1550, 1553 (Fed. Cir. 1997); Corning Glass Works v. Sumitomo Elec. U.S.A., Inc. 868 F.2d 1251, 7, 9 USPQ2d 1962, 1966 (Fed. Cir. 1989). Indeed, when discussing the "claim" in such a circumstance, there is no meaningful distinction to be drawn between the claim, preamble and the rest of your claim, for only together do they comprise the "claim". If, however, the body of the claim fully and intrinsically sets forththe complete invention, including all of its limitations, and the preamble offers no distinct definition of any of the claimed invention's limitations, butrather merely states, for example, the purpose of intended use of the invention,then the preamble is of no significance to claim construction because it cannot be said to constitute or explain a claim limitation. See Rowe, 112 F.3d at 478, 42 USPQ2d at 1553; Corning Glass, 868 F.2d at 1257, 9 USPQ2d at 1966; Kropa, 187 F.2d at 152, 88 USPQ at 480-81.
> [1] here, the preamble is "necessary to give life, meaning, and vitality" to the claim. Kropa, 187 F.2d at 152, 88 USPQ at 480-81. The preamble statement that the patent claims a method of or apparatus for "producing on a photoreceptor an image of generated shapes

> made up of spots" is not merely a statement describing the invention's intended field of use. Instead, that statement is intimately meshed with the ensuing languagein the claim. For example, both independent claims conclude with clause "whereby the appearance of smoothed edges are given to the generated shapes". Because this is the first appearance in the claim body of the term "generated shapes", the term can only be understood in the context of the preamble statement " producing on a photoreceptor an image of generated shapes made up spots". Similarily, the term "spots" isis initially used in the preamble to refer to the elements that make up the image of generated shapes that are producedon the photoreceptor. The term "spots" then appears twicein each of the independent claims. That the claim term "spots" refers to the components that together make up the images of generated shapes on the photoreceptor is only discernible from the claim preamble. In such a case, it is essential that the court charged with the claim construction construe the preamble requires a two-step analytical approach. First, the claims of the parent must be construed to determine their scope. See Carroll Touch, Inc. v. Electro Mechanical Sys., Inc. 15 f.3d 1573, 1576, 27 USPQ2d 1836, 1839 (fed. Cir. 1993). Second, a determination must be made as to whether the properly construed claims read on the accused device."

Hence, the phrase "utilizing a computer" in the preamble should be considered part of the claim. Thus, claims 31-41, 43 and 45-61 are directed to statutory subject matter.

Claims 35-40, 43-45 and 61 have been rejected by the Examiner under 35 USC §103(a) as being anticipated by Francisco (U.S. Patent No. 5,875,433).

Francisco discloses the following in line 46, column 9 to line 39, column 10:

> "FIG. **6** is block diagram/flow chart according to an embodiment of this invention wherein tax (e.g. "use tax") on sales made over the Internet, catalog, world wide web, direct mail, etc. **216**, is automatically charged to the buyer or customer, and reported to the IRS and forwarded to the appropriate State Treasury based on the location of the customer (i.e. where the goods are to be shipped). As shown in FIG. **6**, when a buyer or customer wishes to purchase a product over the Internet **216**, for example, the buyer or consumer first uses communication link **216** (e.g. package switched digital data network) and makes the purchase at **201** (e.g. via direct mail, catalog order, Internet, etc.). After the consumer has made the purchase, the transaction (i.e. the purchase) is recorded on tax register **8** at the retailer location at **203**. Thereafter, tax register **8** calculates the sales tax or "use tax" based on the destination of the goods at **205**. For example, if the consumer or buyer is located in Virginia and the purchased goods are requested by the consumer to be shipped there from a New York retailer, tax register **8**

> at **205** calculates the Virginia use tax to be charged against the consumer's account or credit card. After this tax has been calculated at **205**, the consumer is given a receipt **7** via the Internet, direct mail, or simply by regular U.S. Mail **216**. After the tax has been calculated at **205**, the retailer ships the purchased goods to the consumer and initiates a credit card transaction at **207**, given the fact that the consumer has purchased the goods with a credit card. In step **207**, tax register **8** instructs the system and coordinates the credit card transaction via a modem which is in communication with the credit card company. Thus, the credit card company at **209** charges the credit card of the consumer with both the sales price and the tax (e.g. use tax or just sales tax if the goods are not being shipped out-of-state.)
>
> Still referring to FIG. **6**, after the credit card transaction has been completed, the amount of the sale is dispersed to the retailer at **211** via network **216** and tax register **8** reports the sales transaction to the State and/or IRS at **213**. While tax register **8** reports to the State and IRS, the credit card company disperses the tax funds charged the consumer to the State and/or IRS at **214** via network **216**. At **215**, the appropriate State Treasury (e.g. Virginia) receives the tax calculated in step **205** over the Internet, modem, etc. while at step **35**, the IRS receives the gross income summary form 1099 via network **216**. Network **216** may be the Internet throughout the entire FIG. **6** system or, alternatively, may be partially the Internet (packet switched network) and otherwise via the public switched telephone network (PSTN) or the like.
>
> In a manner consistent with FIG. **6**, appropriate State and Federal Government Agencies automatically receive their tax information, including use tax and sales tax dollars, when consumers purchase goods or products over the Internet, via catalog, direct mail, televised shopping clubs, etc. **216** where enforcement of "use tax" payment is otherwise difficult given conventional systems. In sum, the FIG. **6** system is an improvement over the prior art which will permit governments to save large quantities of tax dollars, and will allow consumers and retailers to avoid costly tax preparation."

In the invention disclosed by Francisco, after a credit card transaction for the purchase of goods has been completed, the amount of the sale is dispersed to the retailer at 211 via network 216, and tax register 8 reports the sales transaction to the state. In Francisco's system, the identity of the retailer and the identity of the purchaser are known to the state.

Applicants claim in claim 36, and those claims dependent thereon, a different method than that disclosed by Francisco. Francisco does not disclose or anticipate accessing seller information for a taxing jurisdiction segmented by the agent for that jurisdiction with a unique identifier wherein the identity of the seller remains secret. In Applicants' method, the identity of the seller is not known by the taxing jurisdiction.

The Examiner stated the following in paragraph 8 of page 3 of the March 18, 2005 Office Action:

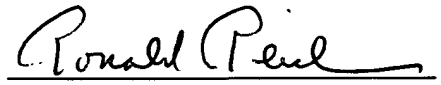
> "Francisco does not disclose the term segmented, having a unique identifier, keeping the identity of the seller secret, and analyzing the data and filing a tax return.
>
> Official Notice is taken that each of these features has been well known common knowledge within the consulting art. To have provided such for Francisco would have been obvious to one of ordinary skill in the art. The motivation for doing such is to maintain confidential information with the ability to analyze such for tax revenue enhancement purposes."

Applicants traverse the Examiner official Notice. Applicants submit that the consulting art is a non-analogous art. Furthermore, taxing jurisdictions do not receive seller information that has been segmented by an agent wherein the identity of the seller remains secret, and/or tax returns filed by an agent for the seller where the identity of the seller is secret.

Furthermore, typically known the identity of the seller when the taxing jurisdiction collects sales and/or uses taxes since the seller is the party who is legally obligated to pay the tax to the taxing jurisdiction.

In view of the above, claims 36-41, 43, 44, 47, 48, and 50-61 are patentable. If the Examiner has any questions, would he please contact the undersigned at the telephone number noted below.

Respectfully submitted,



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